

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

CONSUMER FINANCIAL PROTECTION BUREAU

PLAINTIFF

VS.

CIVIL ACTION NO. 3:16-cv-00356-WHB-JCG

**ALL AMERICAN CHECK CASHING, INC.;
MID-STATE FINANCE, INC.; and
MICHAEL E. GRAY, individually**

DEFENDANTS

**JOINT MOTION FOR EXTENSION OF TIME
TO COMPLETE DISCOVERY**

Pursuant to Federal Rule of Civil Procedure 16(b)(4), Plaintiff, Consumer Financial Protection Bureau (“Bureau”) and Defendants, All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray (collectively, “Defendants”), jointly move this Court for an Order extending the time to complete discovery and, as a result, also extending subsequent deadlines in the Case Management Order. In support of this Motion, the parties submit the following:

1. On July 7, 2016, the Court entered a Case Management Order that set scheduling deadlines in the above-captioned case. *See* ECF No. 21. The Case Management Order provides that the parties must complete discovery by January 25, 2017. *Id.*
2. During the Case Management Conference, the Court indicated that although the discovery deadline was set for January 25, 2017, the parties should submit a motion seeking additional time if it became necessary.
3. The Bureau served its first Requests for Production of Documents on Defendants on July 26, 2016. On September 7, 2016 and September 15, 2016,

Defendants provided written responses and objections, producing more than 3,000 pages of documents in response to four of the Bureau's fourteen document requests. The parties held numerous teleconferences in October and November to address Defendants' objections, narrow certain requests, and develop search terms for e-mail discovery. On November 21, 2016, the Bureau filed a motion to compel with respect to certain issues where the parties have been unable to reach agreement.

4. Even with respect to those requests where Defendants have agreed to produce documents, Defendants have not yet completed their production. Defendants are diligently working to complete said production.

5. The parties need additional time to complete document discovery. This is a document-intensive case. In addition, a motion to compel is now pending. As a result, the Bureau is still awaiting what it believes to be essential information that is necessary for the Bureau's case.

6. The parties have agreed that the Bureau will commence its deposition discovery by taking four depositions during the week of December 12, 2016. As a result of a state administrative hearing before the Mississippi Department of Banking and Consumer Finance, which involves issues relating to this matter, and other conflicts, Defendants' counsel were not available in November or earlier in December for depositions.

7. Defendants attempted to begin their deposition discovery in July 2016. However, due to Plaintiff's request for a protective order, Defendants did not proceed with their planned depositions at that time.

8. The parties need additional time to complete depositions. The Case Management Order provides that each party may take up to 20 fact depositions, in

addition to depositions of the parties and experts. On November 3, 2016, the Bureau identified two expert witnesses.

9. The parties believe that a two-month extension of the discovery deadline, until March 31, 2017, would allow sufficient time for the parties to complete document discovery and conduct all necessary depositions.

10. The parties meet the “good cause” standard for requesting an extension of pretrial deadlines. *See* Fed. R. Civ. P. 16(b)(4). To establish “good cause,” parties seeking modification of a scheduling order must generally show that “the deadlines cannot reasonably be met despite the diligence of the party needing the extension.” *Puig v. Citibank, N.A.*, 514 F. App’x 483, 488 (5th Cir. 2013). Delays resulting from discovery disputes, for example, can be sufficient to establish good cause. *See, e.g., Donald v. Arrowood Indem. Co.*, No. 2:10-cv-227, 2011 WL 2174015, at *3 (S.D. Miss. May 31, 2011) (“As the discovery disputes to date have served to delay the progress of this matter and for other good cause, the court will grant Plaintiff’s Motion for an Amended Scheduling Order[.]”); *Hoagland v. Rockin’ R Ranch & Lodge Guest Operations, Inc.*, No. 2:10-cv-478, 2011 WL 1740152, at *2 (D. Utah May 5, 2011) (good cause standard satisfied due to delays caused by discovery disputes); *Ransom v. Johnson*, No. 1:05-cv-00086, 2009 WL 1025587, at *10 (E.D. Cal. April 14, 2009) (“In light of the existence of substantial discovery disputes between the parties, now largely resolved, the Court finds good cause to modify the scheduling order.”).

11. Accordingly, in order for the parties to complete discovery and gather evidence for trial, the parties request an extension of the discovery deadline to March 31, 2017. In addition, to maintain the sequencing of subsequent pre-trial deadlines (e.g., to ensure that the last day to file motions occurs after the close of discovery), the parties

also request that the Court extend additional deadlines in the Case Management Order. The parties also request an additional two weeks between the close of discovery and the deadline for dispositive and *Daubert*-type motions. Specifically, the parties request that the Court amend the current Case Management Order as follows:

Deadline for Discovery – March 31, 2017

Deadline for Dispositive and *Daubert*-type Motions – April 28, 2017

Settlement Conference – a day convenient to the Court in June 2017

Report Regarding ADR – August 9, 2017

Pre-Trial Conference – August 16, 2017

Trial – a day convenient to the Court in September 2017

A proposed order reflecting the requested dates as listed above is attached hereto as Exhibit A.

Dated: November 23, 2016

Respectfully submitted,

CONSUMER FINANCIAL PROTECTION BUREAU

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CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2016, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record, including the following:

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